



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

JUL 23 2014

SE-5J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Robert E. Cherry  
52820 South Yorktown Court  
Chesterfield, Michigan 48051-2298

Re: Sempco Facility  
201 North 8<sup>th</sup> Street, West Branch, Ogemaw County, Michigan 48661  
Site Spill Identification Number: C52Y

Dear Mr. Cherry:

The U.S. Environmental Protection Agency has documented the release or threat of release of hazardous substances, pollutants and contaminants into the environment from the Sempco Facility (the Site), and is planning to spend public funds to control and investigate these releases. This action will be taken by EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. §§ 9601-9675 unless EPA determines that such action will be done properly by a responsible party or parties. Responsible parties under CERCLA include the current and former owners and operators of the Sempco Facility, and persons who generated the hazardous substances or were involved in the transport, treatment or disposal of the hazardous substances at the Site. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), where EPA uses public funds towards the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal or remedial action and all other necessary costs incurred in cleaning up the Sempco Facility, including investigation, planning and enforcement costs.

EPA is currently planning to conduct the following actions at the Sempco Facility:

1. Develop and implement a Site Health and Safety Plan and a Site Work Plan outlining measures to control and dispose of all CERCLA hazardous substances remaining on the property;
2. Conduct sampling as necessary to determine the extent of contamination;

3. If necessary, abate all Site-related hazardous substances, pollutants, or contaminants, and transport to and dispose of at an EPA-approved disposal facility, in accordance with the EPA's Off-Site Rule (40 CFR § 300.440);
4. Take any other necessary response actions to address any release or threatened release of a hazardous substance, pollutant, or contaminant that the EPA determines may pose an imminent and substantial endangerment to the public health or welfare or the environment.

EPA has received information that you may have owned or operated the Sempco Facility or generated or transported hazardous substances that were disposed of at the Site. By this letter, EPA notifies you of your potential liability with regard to this matter and encourages you, as a potentially responsible party, to agree to reimburse EPA for costs incurred to date and to voluntarily perform or finance the response activities that EPA has determined or will determine are required at the Sempco Facility. EPA is willing to discuss the entry of an appropriate administrative consent order under which you would perform or finance response activities and reimburse EPA for its costs.

If a consent order cannot be promptly concluded, EPA may issue a unilateral order under Section 106 of CERCLA, requiring you to perform specified work. Under Sections 106 and 107 of CERCLA, you may be liable for reimbursement of EPA's costs, for statutory penalties and for treble damages for noncompliance with such an order. If you are qualified as a small business, enclosed is a *U.S. EPA Small Business Resources Information Sheet*, which may be helpful if it is subject to an EPA enforcement action.

Because of the conditions described above, EPA believes that response activities at the Sempco Facility must be initiated as quickly as possible. Therefore, EPA does not intend to utilize the special notice procedures available under Section 122(e) of CERCLA.

You should, as a potentially responsible party, notify EPA in writing within ten (10) business days of receipt of this letter of your willingness to perform or finance the activities described above and to reimburse EPA for its costs. The response should be sent to:

Mike R. Rafati, Enforcement Specialist  
U.S. Environmental Protection Agency, Region 5  
Superfund Division, Enforcement and Compliance Assurance Branch  
Enforcement Services Section 2, SE-5J  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

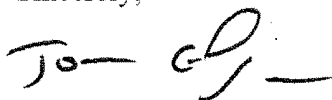
If EPA does not receive a timely response, EPA will assume that you do not wish to negotiate a resolution of its potential responsibility in connection with the Sempco Facility and that you have declined any involvement in performing the response activities.

Your response should indicate the appropriate name, address and telephone number for further contact regarding the Sempco Facility.

If you need further information regarding this letter, you may contact Nola Hicks of the EPA Office of Regional Counsel at (312) 886-0564.

Due to the nature of the problem at this facility and the attendant legal ramifications, EPA strongly encourages you to submit a written response on behalf of the Sempco Facility within the time frame specified herein. We hope you will give this matter your immediate attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason El Zein", with a horizontal line extending to the right.

Jason El Zein, Chief  
Emergency Response Branch 1

**Enclosure**

U.S. EPA Small Business Resources Information Sheet

## U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

### EPA's Small Business Websites

Small Business Environmental Homepage - [www.smallbiz-enviroweb.org](http://www.smallbiz-enviroweb.org)

Small Business Gateway - [www.epa.gov/smallbusiness](http://www.epa.gov/smallbusiness)

EPA's Small Business Ombudsman - [www.epa.gov/sbo](http://www.epa.gov/sbo) or 1-800-368-5888

#### EPA's Compliance Assistance Homepage

[www.epa.gov/compliance/assistance/  
business.html](http://www.epa.gov/compliance/assistance/business.html)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

**EPA's Compliance Assistance Centers**  
[www.assistancecenters.net](http://www.assistancecenters.net)

EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

**Agriculture**  
[www.epa.gov/agriculture/](http://www.epa.gov/agriculture/)

**Automotive Recycling**  
[www.ecarcenter.org](http://www.ecarcenter.org)

**Automotive Service and Repair**  
[www.ccar-greenlink.org](http://www.ccar-greenlink.org) or 1-888-GRN-LINK

**Chemical Manufacturing**  
[www.chemalliance.org](http://www.chemalliance.org)

**Construction**  
[www.cicacenter.org](http://www.cicacenter.org) or 1-734-995-4911

**Education**  
[www.campuserc.org](http://www.campuserc.org)

**Food Processing**  
[www.fpeac.org](http://www.fpeac.org)

**Healthcare**  
[www.hercenter.org](http://www.hercenter.org)

**Local Government**  
[www.lgean.org](http://www.lgean.org)

**Metal Finishing**  
[www.nmfrc.org](http://www.nmfrc.org)

**Paints and Coatings**  
[www.paintcenter.org](http://www.paintcenter.org)

**Printed Wiring Board Manufacturing**  
[www.pwbrc.org](http://www.pwbrc.org)

**Printing**  
[www.pneac.org](http://www.pneac.org)

**Ports**  
[www.portcompliance.org](http://www.portcompliance.org)

**U.S. Border Compliance and  
Import/Export Issues**  
[www.bordercenter.org](http://www.bordercenter.org)

**Hotlines, Helplines and  
Clearinghouses**  
[www.epa.gov/epahome/hotline.htm](http://www.epa.gov/epahome/hotline.htm)

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

**Antimicrobial Information Hotline**  
[info-antimicrobial@epa.gov](mailto:info-antimicrobial@epa.gov) or  
1-703-308-6411

**Clean Air Technology Center (CATC)  
Info-line**  
[www.epa.gov/ttn/catc](http://www.epa.gov/ttn/catc) or 1-919-541-0800

**Emergency Planning and Community  
Right-To-Know Act**  
[www.epa.gov/superfund/resources/  
infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346

**EPA Imported Vehicles and Engines  
Public Helpline**  
[www.epa.gov/otaq/imports](http://www.epa.gov/otaq/imports) or  
734-214-4100

**National Pesticide Information Center**  
[www.npic.orst.edu/](http://www.npic.orst.edu/) or 1-800-858-7378

**National Response Center Hotline -  
to report oil and hazardous substance spills**  
[www.nrc.uscg.mil](http://www.nrc.uscg.mil) or 1-800-424-8802

**Pollution Prevention Information  
Clearinghouse (PPIC)**  
[www.epa.gov/opptintr/ppic](http://www.epa.gov/opptintr/ppic) or  
1-202-566-0799

**Safe Drinking Water Hotline**  
[www.epa.gov/safewater/hotline/index.  
html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

**Stratospheric Ozone Protection Hotline**  
[www.epa.gov/ozone](http://www.epa.gov/ozone) or 1-800-296-1996

## U. S. EPA Small Business Resources

**Toxic Substances Control Act (TSCA) Hotline**  
[tsca-hotline@epa.gov](mailto:tsca-hotline@epa.gov) or 1-202-554-1404

**Wetlands Information Helpline**  
[www.epa.gov/owow/wetlands/wetline.html](http://www.epa.gov/owow/wetlands/wetline.html) or 1-800-832-7828

### State and Tribal Web-Based Resources

**State Resource Locators**  
[www.envcap.org/statetools](http://www.envcap.org/statetools)

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

**State Small Business Environmental Assistance Programs (SBEAPs)**  
[www.smallbiz-enviroweb.org](http://www.smallbiz-enviroweb.org)

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits. The website is a central point for sharing resources between EPA and states.

**EPA's Tribal Compliance Assistance Center**  
[www.epa.gov/tribalcompliance/index.html](http://www.epa.gov/tribalcompliance/index.html)

The Center provides material to Tribes on environmental stewardship and regulations that might apply to tribal government operations.

**EPA's Tribal Portal**  
[www.epa.gov/tribalportal/](http://www.epa.gov/tribalportal/)

The Portal helps users locate tribal-related information within EPA and other federal agencies.

### EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

**EPA's Small Business Compliance Policy**  
[www.epa.gov/compliance/incentives/smallbusiness/index.html](http://www.epa.gov/compliance/incentives/smallbusiness/index.html)

This Policy offers small businesses special incentives to come into compliance voluntarily.

**EPA's Audit Policy**  
[www.epa.gov/compliance/incentives/auditing/auditpolicy.html](http://www.epa.gov/compliance/incentives/auditing/auditpolicy.html)

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

### Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247), or go to their website at [www.sba.gov/ombudsman](http://www.sba.gov/ombudsman).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

### Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

*EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.*